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Paper No. 25

HICKMAN PALERMO TRUONG & BECKER, LLP  
1600 Willow Street  
San Jose, CA 95125

DEC 1 2004

In re Application of:  
David C. Chapman : *SUA SPONTE*  
Serial No.: 09/421,437 : DECISION WITHDRAWING HOLDING OF  
Filed: October 19, 1999 : ABANDONMENT  
Attorney Docket No.: 50265-018 :

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

The application was held abandoned for the failure to file an appeal of the decision by the Board of Patent Appeals and Interferences (BAPI) on July 29, 2004, or further action within the 2-month period after that BAPI decision. A Notice of Abandonment was mailed on October 18, 2004.

A review of the written record shows that the decision rendered by the BAPI affirmed in part the rejections made by the examiner. The procedure after this type of decision is set forth in M.P.E.P. 1214.06(I)(B) which states:

*If the Board or court affirms a rejection against an independent claim and reverses all rejections against a claim dependent thereon, the examiner, after expiration of the period for further appeal, should proceed in one of two ways:*

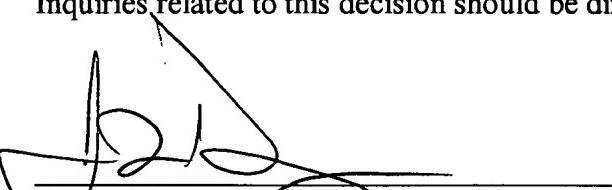
- (1) *Convert the dependent claim into independent form by examiner's amendment, cancel all claims in which the rejection was affirmed, and issue the application; or*
- (2) *Set a 1-month time limit in which appellant may rewrite the dependent claim(s) in independent form. Extensions of time under 37 CFR 1.136(a) will not be permitted. If no timely reply is received, the examiner will cancel all rejected and objected to claims and issue the application with the allowed claims only.*

In view of the above, it appears that the application was prematurely abandoned.

Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The application file is being forwarded to the examiner for further processing, pursuant to the guidelines of M.P.E.P. 1214.06(I)(B).

Inquiries related to this decision should be directed to Clayton E. LaBalle at (571) 272-1594.



James L. Dwyer, Director  
Technology Center 2800  
Semiconductors, Electrical and Optical  
Systems and Components